

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) UV/001 C2	
	Application Number 09/770,865	Filed January 26, 2001	
	First Named Inventor Lemmons et al.		
	Art Unit 2424	Examiner M. P. Van Handel	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheets. Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 60%;"> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number L0381</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> </div> <div style="width: 35%; text-align: center;"> <p>_____ /Regina Sam/ Signature</p> <p>_____ Regina Sam Typed or printed name</p> <p>_____ (617) 951-7814 Telephone number</p> <p>_____ March 22, 2010 Date</p> </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<input checked="" type="checkbox"/> *Total of 1 forms are submitted.			

Docket No.: UV/001 C2
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lemmons et al.

Application No.: 09/770,865

Confirmation No.: 7787

Filed: January 26, 2001

Art Unit: 2424

For: INTERACTIVE PROGRAM GUIDE SYSTEMS
AND PROCESSES

Examiner: M. P. Van Handel

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

Pursuant to 1296 Off. Gaz. 2 (July 12, 2005), applicant requests review of the final rejection of claims 2, 4-9, 15, and 17-22 in the above-identified application. No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal.

Concise Argument for Which Review is Being Requested begins on page 2 of this paper.

CONCISE ARGUMENT FOR WHICH REVIEW IS BEING REQUESTED

Applicants request pre-appeal conference review and withdrawal of the § 102 rejection of claims 2, 4-9, 15, and 17-22 in light of the following remarks:

Independent claims 2 and 15 are directed to a unique and particular mechanism for presenting program information in a program guide. To enable a user to quickly jump to the specific program information that the user desires, a plurality of “navigation points” are simultaneously displayed in one or more “program information cells” in a program grid. The claim specifically states that “program information cells” are cells for presenting program information associated with a subset of time cells and channel cells (where time and channel cells refer to divisions on a time bar and a channel bar that is perpendicular to the time bar, respectively). (See, e.g., elements 150 and 152 of Applicants’ Figure 29.) Each navigation point is associated with “predefined criteria.” In response to receiving a user selection of a particular navigation point, program information associated with programs that satisfy the predefined criteria are presented.

Clear Error of Fact in the Rejection

Rauch clearly fails to expressly or inherently describe a program information cell having a navigation point at least because the time scroll bar 224, the channel scroll bar 226, and the day selector 220 in Figure 2 of Rauch are not “program information cells.” Applicants’ program information cells are cells for presenting program information associated with a subset of time cells and channel cells. Therefore, to be a program information cell, a cell must be located at an intersection of a time division (on a time bar) and a channel division (of a channel bar), and correspond to a location on a grid where program information for the time division and the channel division would ordinarily be displayed. The scroll bar, time bar, and day selector of Rauch clearly do not meet these requirements.

The Examiner asserts that the time scroll, the channel scroll, and the day selector of Rauch are program information cells because they are “defined by the boundaries of the program information cells.” (Office Action, page 3). This argument is not based on a logical or fair reading of Rauch. An entity X cannot be subsumed by an entity Y simply because entity Y

“defines the boundaries” of entity X. For example, the time scroll bar 224 in Figure 2 of Rauch “defines a boundary” for text display 230 of Figure 2 of Rauch in the same way that the program cells of Figure 2 border the scroll bars, and yet the Examiner cannot rationally contend that this makes text window display 230 a time scroll bar. There is simply no logical basis for the Examiner’s contention that the time and channel scroll bars, and day selector of Rauch are the same as the program information cells specified in claims 2 and 15. The § 102 rejection of claims 2 and 15 should be withdrawn for this reason alone.

Clear Error of Law in the Rejection

In addition, claims must be “given their broadest reasonable interpretation consistent with the specification” (*Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005), emphasis added), and every word in a claim must be given “full effect.” (*Johnson Worldwide Assoc., Inc. v. Zebco Corporation*, 175 F.3d 985, 989 (Fed. Cir. 1999)). The Examiner’s interpretation of the claim is unreasonably broad because it fails to give full effect to the claim term “program information cells.” The Examiner incorrectly assumes that any portion of a screen that could conceivably be covered by a pattern of intersecting vertical and horizontal lines is a “program information cell.” (see office action, page 3, lines 1-3). This interpretation, however, is clearly inconsistent with applicants’ specific language in claims 2 and 15 which limits program information cells to “cells for presenting information associated with...a plurality of time cells and channel cells.” This interpretation is also inconsistent with Applicants’ specification. For example, Applicants’ Figure 3 shows a program guide menu screen 100 that includes a program grid 112 that is divided into a plurality of program information cells 114 (see paragraph [0056]). Yet, not every element on screen 100 that could be defined by intersecting vertical and horizontal pattern of lines is a program information cell (e.g., date cell 106, which is clearly a “cell,” is not a program information cell).

For at least the foregoing reasons, Rauch fails to teach each and every element of independent claims 2 and 15. Applicants therefore respectfully request review and withdrawal of the rejection of claims 2 and 15. Applicants also request review and withdrawal of the rejection of claims 4-9 and 17-22, which depend from claims 2 and 15, for at least the same reasons.

Applicants believe they have provided for fees due with this response. However, if additional fees are due, please charge our Deposit Account No. 06-1075, under Order No. 003597-0001 from which the undersigned is authorized to draw.

Dated: March 22, 2010

Respectfully submitted,

By___/Regina Sam/_____

Regina Sam

Registration No.: L0381

ROPES & GRAY LLP

Customer No. 75563

Attorneys/Agents For Applicants